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1 2 3 4 5 6 7 8 9 10	EDMUND G. BROWN JR. Attorney General of California GLORIA A. BARRIOS Supervising Deputy Attorney General MICHAEL BROWN Deputy Attorney General State Bar No. 231237 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2095 Facsimile: (213) 897-2804 E-mail: MichaelB.Brown@doj.ca.gov Attorneys for Complainant BEFOR BOARD OF REGIST DEPARTMENT OF CO	TERED NU ONSUMER	AFFAIRS A	617		
12 13 14 15	MILAGROS M. DELMENDO, AKA MILAGROS MAMURIC DELMENDO, AKA MILAGROS B. MAMURIC 20160 Via Cellini Northridge, CA 91326 Registered Nurse License No. 273000	ACCUSA	ATION		~	
16	Respondent.					
17	Complainant alleges:		•			
19	<u>PARTIES</u>					
20 21 22 23 24 25 26 27 28	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs. 2. On or about November 30, 1976, the Board of Registered Nursing issued Registered Nurse License Number 273000 to Milagros Mamuric Delmendo, aka Milagros B. Mamuric (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2010, unless renewed. ///					
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Accusation

JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.
 - 6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:"
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
 - 7. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

- "(c) Theft, dishonesty, fraud, or deceit."
- 8. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the

Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

- 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
 - 10. Section 810 of the Code states:
- "(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:
 - (2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.
- "(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.
- "(c) (1) It shall constitute cause for automatic suspension of a license or certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or certificate holder has been convicted of any felony involving fraud committed by the licensee or certificate holder in conjunction with providing benefits covered by worker's compensation insurance, or has been convicted of any felony involving Medi-Cal fraud committed by the licensee or certificate holder in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to

determine whether or not the license or certificate shall be suspended, revoked, or some other disposition shall be considered, including, but not limited to, revocation with the opportunity to petition for reinstatement, suspension, or other limitations on the license or certificate as the board deems appropriate."

11. Section 125.3 of the Code provides, in pertinent part, that the Board/Registrar/Director may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

- 12. Respondent is subject to disciplinary action under section 490 and 2761(f), as defined in California Code of Regulations, title 16, section 1444, in that on or about February 2, 2010, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a registered nurse. The circumstances are as follows:
- A. On or about February 2, 2010, in a criminal proceeding entitled *The People of the State of California vs.Milagros Mamuric Delmendo* in Los Angeles County Superior Court, Case No. BA332012, Respondent was convicted of violating Penal Code 487 (grand theft), a felony. Respondent was convicted of violating Welfare and Institution code section 14107 subdivision (b)(4)(A) (medi-cal fraud), a felony. Respondent was convicted of violating Penal code section 550 (insurance fraud), a felony. Respondent was convicted of violating Welfare and Institution code section 14107.2 subdivision (b) (pay kickback, bribes), a felony.
- B. The circumstances of the conviction are that between January 1, 2004 to September 1, 2007, Respondent paid cappers a kickback in exchange for the referral of Medi-Cal beneficiaries' enrollment in Respondent's hospice care facility. Respondent agreed to pay each beneficiary a kickback for their initial and continued enrollment in Respondent's hospice care facility. Respondent aided and abetted to defraud the Medi-Cal program. Respondent knowingly and willingly caused fraudulent Medi-Cal claims to be submitted for the purposes of illegally obtaining reimbursement.

SECOND CAUSE FOR DISCIPLINE (Unprofessional Conduct) Respondent is subject to disciplinary action under section 2761, subdivision (a) and 13. 810 subdivision (a)(2)(b)(c)(1) in that between January 1, 2004 to September 1, 2007, Respondent committed acts of unprofessional conduct, as more fully described above in paragraph 12, above. **PRAYER** WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision: Revoking or suspending Registered Nurse License Number 273000, issued to 1. Milagros M. Delmendo, aka Milagros Mamuric Delmendo, aka Milagros B. Mamuric; Ordering Milagros Mamuric Delmendo to pay the Board of Registered Nursing the 2. reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; Taking such other and further action as deemed necessary and proper. 3. DATED: 19 Interim Executive Officer 20 Board of Registered Nursing Department of Consumer Affairs 21 State of California Complainant 22 23 LA2010600423 50628282.doc 24 25 26 27

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